

## Senate Bill No. 1951

### CHAPTER 523

An act to add Section 512 to the Business and Professions Code, to add Section 1395.5 to the Health and Safety Code, and to add Section 10127.4 to the Insurance Code, relating to health coverage.

[Approved by Governor September 15, 1998. Filed  
with Secretary of State September 15, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1951, Brulte. Health coverage: providers: advertising.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a crime. Existing law also provides for the regulation of policies of disability insurance administered by the Insurance Commissioner.

This bill would make it unlawful for a contract between a health care provider and a health care service plan, a disability insurer, or any person or entity, including any group of physicians and surgeons, any medical group, any independent practice association (IPA), or any preferred provider organization (PPO) to contain provisions that prohibit, restrict, or limit the health care provider from advertising. Since the willful violation of the provisions relating to health care service plans is a crime, this bill would impose a state-mandated local program. The bill would also state that its provisions shall not be construed to prohibit reasonable guidelines in connection with specified regulated activities, or to impair or impede existing authority to regulate advertising, disclosure, or solicitation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares as follows:

(a) The State of California recognizes that one of the benefits of managed care is the availability of a broad range of services to patients.

(b) If patients are unaware of services available to them, they may not use these services, even when to do so would be beneficial to their health.

(c) Patients' awareness of covered services and participating providers will be improved if health care providers are permitted to advertise their participation in provider panels or networks in an appropriate manner.

SEC. 2. Section 512 is added to the Business and Professions Code, to read:

512. (a) Except as provided in subdivisions (b) and (c), no contract that is issued, amended, renewed, or delivered on or after January 1, 1999, between any person or entity, including, but not limited to, any group of physicians and surgeons, any medical group, any independent practice association (IPA), or any preferred provider organization (PPO), and a health care provider shall contain provisions that prohibit, restrict, or limit the health care provider from advertising.

(b) Nothing in this section shall be construed to prohibit the establishment of reasonable guidelines in connection with the activities regulated pursuant to this division, including those to prevent advertising that is, in whole or in part, untrue, misleading, deceptive, or otherwise inconsistent with this division or the rules and regulations promulgated thereunder. For advertisements mentioning a provider's participation in a plan or product line of any person or entity, nothing in this section shall be construed to prohibit requiring each advertisement to contain a disclaimer to the effect that the provider's services may be covered for some, but not all, plans or product lines of that person or entity, or that the person or entity may cover some, but not all, provider services.

(c) Nothing in this section is intended to prohibit provisions or agreements intended to protect service marks, trademarks, trade secrets, or other confidential information or property. If a health care provider participates on a provider panel or network as a result of a direct contractual arrangement with a person or entity, including, but not limited to, any group of physicians and surgeons, any medical group, any independent practice association, or any preferred provider organization, that, in turn, has entered into a direct contractual arrangement with another person or entity, pursuant to which enrollees, subscribers, insureds, and other beneficiaries of that other person or entity may receive covered services from the health care provider, then nothing in this section is intended to prohibit reasonable provisions or agreements in the direct contractual arrangement between the health care provider and the person or entity that protect the name or trade name of the other person or entity or require that the health care provider obtain the consent of the person or entity prior to the use of the name or trade name of the person or entity in any advertising by the health care provider.



(d) Nothing in this section shall be construed to impair or impede the authority of any state department to regulate advertising, disclosure, or solicitation pursuant to this division.

SEC. 3. Section 1395.5 is added to the Health and Safety Code, to read:

1395.5. (a) Except as provided in subdivisions (b) and (c), no contract that is issued, amended, renewed, or delivered on or after January 1, 1999, between a health care service plan, including a specialized health care service plan, and a provider shall contain provisions that prohibit, restrict, or limit the health care provider from advertising.

(b) Nothing in this section shall be construed to prohibit plans from establishing reasonable guidelines in connection with the activities regulated pursuant to this chapter, including those to prevent advertising that is, in whole or in part, untrue, misleading, deceptive, or otherwise inconsistent with this chapter or the rules and regulations promulgated thereunder. For advertisements mentioning a provider's participation in a plan, nothing in this section shall be construed to prohibit plans from requiring each advertisement to contain a disclaimer to the effect that the provider's services may be covered for some, but not all, plan contracts, or that plan contracts may cover some, but not all, provider services.

(c) Nothing in this section is intended to prohibit provisions or agreements intended to protect service marks, trademarks, trade secrets, or other confidential information or property. If a health care provider participates on a provider panel or network as a result of a direct contractual arrangement with a health care service plan that, in turn, has entered into a direct contractual arrangement with another person or entity, pursuant to which enrollees, subscribers, insureds, and other beneficiaries of that other person or entity may receive covered services from the health care provider, then nothing in this section is intended to prohibit reasonable provisions or agreements in the direct contractual arrangement between the health care provider and the health care service plan that protect the name or trade name of the other person or entity or require that the health care provider obtain the consent of the health care service plan prior to the use of the name or trade name of the other person or entity in any advertising by the health care provider.

(d) Nothing in this section shall be construed to impair or impede the authority of the commissioner to regulate advertising, disclosure, or solicitation pursuant to this chapter.

SEC. 4. Section 10127.4 is added to the Insurance Code, to read:

10127.4. (a) Except as provided in subdivisions (b) and (c), no contract that is issued, amended, renewed, or delivered on or after January 1, 1999, between a disability insurer that provides coverage for hospital, medical, or surgical benefits and a health care provider

shall contain provisions that prohibit, restrict, or limit the health care provider from advertising.

(b) Nothing in this section shall be construed to prohibit disability insurers from establishing reasonable guidelines in connection with the activities regulated pursuant to this part, including those to prevent advertising that is, in whole or in part, untrue, misleading, deceptive, or otherwise inconsistent with this part or the rules and regulations promulgated thereunder. For advertisements mentioning a provider's participation in a plan or product line of a disability insurer, nothing in this section shall be construed to prohibit disability insurers from requiring each advertisement to contain a disclaimer to the effect that the provider's services may be covered for some, but not all, plans or product lines of the disability insurer, or that the disability insurer may cover some, but not all, provider services.

(c) Nothing in this section is intended to prohibit provisions or agreements intended to protect service marks, trademarks, trade secrets, or other confidential information or property. If a health care provider participates in a provider panel or network as a result of a direct contractual agreement with a disability insurer that, in turn, has entered into a direct contractual agreement with another person or entity, pursuant to which insureds and other beneficiaries of that other person or entity may receive covered services from the health care provider, then nothing in this section is intended to prohibit reasonable provisions or agreements in the direct contractual arrangement between the health care provider and the disability insurer that protect the name or trade name of the other person or entity or requires that the health care provider obtain the consent of the disability insurer prior to the use of the name or trade name of the other person or entity in any advertising by the health care provider.

(d) Nothing in this section shall be construed to impair or impede the authority of the commissioner to regulate advertising, disclosure, or solicitation pursuant to this part.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

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